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**State of Louisiana**  
Division of Administration  
**Office of State Uniform Payroll**

November 18, 2009

OFFICE OF STATE UNIFORM PAYROLL MEMORANDUM #2010-22

TO: All ISIS HR Paid Agencies

FROM: Andrea P. Hubbard  
Director

SUBJECT: Nonqualified Deferred Compensation (NQDC)

This memorandum replaces previously issued OSUP Memoranda [2008-10](#) Nonqualified Deferred Compensation and [2009-02](#) Nonqualified Deferred Compensation Annual Election for School Year 2008-2009.

The Internal Revenue Service has issued IRS Notice [2008-62](#) providing further guidance regarding the application of Nonqualified Deferred Compensation (NQDC) under section 409(a) of the Internal Revenue Code. Employees who work 9, 10 or 11 months and receive payments over an extended period no longer fall under section 409(a) provisions if:

1. All wage payments are paid prior to the last day of the 13<sup>th</sup> month following the beginning of the service period, and
2. The payments deferred do not exceed the applicable annual limit on employee contributions to section 403(b) and 457(b) plans. Refer to the IRS Notice for examples. Annual OSUP memoranda should be reviewed for the current year contribution limits.

Agencies are no longer required to complete the annual election process or other provisions as outlined in OSUP memoranda 2008-10 and 2009-02 when an employee meets these requirements.

Questions regarding this issue should be directed to Lawanna Green at [lawanna.green@la.gov](mailto:lawanna.green@la.gov) or (225) 342-5333.

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